REMARKS

Rejection of Claims 35-48 Under 35 U.S.C. § 112, First Paragraph

Claims 35-48 were rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for maltodextrin, hydrolyzed guar gum, and inulin as polysaccharides of molecular weights from about 1,000 to about 50,000 daltons, does not reasonably provide enablement for any other polysaccharide having a molecular weight from about 1,000 to about 50,000 daltons.

Independent Claim 35 is directed to a low viscosity glucomannan composition, comprising glucomannan and an edible viscosity lowering polysaccharide having a molecular weight of from about 1,000 to about 50,000 daltons, dispersed in an aqueous medium, wherein the composition has a low viscosity compared to glucomannan dispersed in the aqueous medium in the absence of the viscosity lowering polysaccharide, wherein the aqueous medium is selected from the group consisting of milk, milk-based beverage, carbonated beverage, fruit-based beverage, beer, wine and soy milk.

In the copy of a Declaration of Arthur J. McEvily, Ph.D., attached hereto as Exhibit 1, filed in the parent application to which the subject application claims priority, Applicants demonstrate that the specification provides enablement for other polysaccharides with a molecular weight between 1,000 and 50,000 daltons that are viscosity lowering. The Declaration makes it clear that there are not a vast number of polysaccharides that fall within the 1,000 to 50,000 daltons molecular weight range. The Declaration provides experimental results of two other polysaccharides that are viscosity lowering when added to an aqueous glucomannan composition. In addition, both the specification and the Declaration of Dr. McEvily describe straightforward procedures for creating glucomannan-polysaccharide admixtures and it would not cause undue experimentation for one with skill in the art to identify those compounds within the scope of the claims.

Applicants claims are directed to edible viscosity lowering polysaccharides having a molecular weight of from about 1,000 to about 50,000 daltons. As described above, there are a finite number of polysaccharides that fall within this molecular weight range. Additionally, the specific viscosity lowering polysaccharides identified in the application are very different

compounds. One of skill in the art, when considering the divergent viscosity lowering polysaccharides identified in the application would recognize that one of the most significant similarities among these viscosity lowering polysaccharides is that they share a relatively low molecular weight.

One of skill in the art would recognize that there are a limited number of edible polysaccharides in the molecular weight range of about 1,000 to about 50,000 daltons. Additionally, one of skill in the art could readily follow the teachings of Applicants' specification to create a glucomannan-polysaccharide admixture and then have the ability to determine if the admixture has a lower viscosity compared to a mixture without the polysaccharide. In view of the teachings in the specification and the Declaration, Claims 35-48 satisfy the enablement requirement of 35 U.S.C. § 112, first paragraph.

Rejection of Claims 35-48 Under 35 U.S.C. § 103(a)

Claims 35-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hartigan, *et al.* (U.S. Patent No. 5,709,896) ("Hartigan") in view of Wolf *et al.* (U.S. Patent No. 6,774,111). The Examiner also references Simon *et al.* in the Office Action on page 9. However, there is no other bibliographic information provided in the Office Action concerning this reference and no listing of Simon *et al.* on the PTO-892 that accompanied the Office Action. Applicants request that the Examiner provide additional bibliographic information about this reference.

The Examiner's citation of Wolf as prior art against the instant application is erroneous. Wolf has a priority date of March 14, 2000. The present application is entitled to priority to U.S. Application No. 09/306,53, filed May 6, 1999. Thus, Wolf is not prior art under 35 U.S.C §102 and cannot properly be relied upon for a rejection under 35 U.S.C. § 103(a).

Hartigan describes reduced-fat food dispersions containing an aqueous dispersion of sugar and an aggregate of microcrystalline cellulose (MCC), a gum (e.g., konjac), and optionally polysaccharide such as maltodextrin. Microcrystalline cellulose, a required ingredient, is known to build the viscosity of an aqueous dispersion in the presence of konjac. The teachings of this reference are not particularly relevant to the claimed invention since Applicants do not use microcrystalline cellulose. Although the Examiner points to the use of polysaccharides such as

maltodextrin (col. 2, lines 51 to 57), it is pointed out that it is always used by Hartigan in combination with microcrystalline cellulose. Thus, one would not achieve a viscosity of the final solution that is lower than the starting konjac/microcrystalline cellulose solution in view of the viscosity building nature of MCC. In addition, Hartigan specifically encompasses reduced fat dispersions with the ability to increase viscosity in baked goods.

Additionally, Hartigan teaches that the viscosity of the dispersion can be reduced using a sugar, other than lactose, **in combination with** sucrose. (See column 4, lines 55-58). Sucrose is not an edible viscosity lowering polysaccharide according to the specification because it does not have a molecular weight of from about 1,000 to about 50,000 daltons. Thus, Hartigan does not teach the use of a edible viscosity lowering polysaccharide having a molecular weight of from about 1,000 to about 50,000 daltons.

As discussed above, Wolf is not prior art and Hartigan alone is not enough to establish a *prima facie* case of obviousness. Therefore, the rejection of Claims 35-48 under 35 U.S.C. § 103(a) is traversed and reconsideration is respectfully requested.

Anticipated Rejoinder of Claims Pursuant to M.P.E.P. § 821.04(a)

In accordance with M.P.E.P. § 821.04(a), Applicants respectfully request that if the low viscosity glucomannan composition of Claim 35 is found to be allowable, then withdrawn Claims 19-26 and 29-33 directed to a method for preparing a low viscosity glucomannan composition (Group III), should be rejoined and examined.

CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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